

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRIAN FUSS, *et al.*

DEFENDANTS REPLY BRIEF ON DAMAGES PURSUANT TO 42 U.S.C. §

I. ARGUMENT

Defendants will not argue with plaintiffs' Brief and its summary of the case law regarding a spouses right to bring a loss of consortium type 42 U.S.C. §1983. However, plaintiff Dana Hearn's right to bring such a claim in this matter is a non issue. Similar to the wife seeking to advance a consortium type §1983 claim in *Pahle v. Colebrookdale Township*, 227 F.Supp 2d 361 (E.D.Pa. 2002), wherein Judge Van Antwerpen asserted a belief that a spouse may assert such a claim and thereafter held that the wife did not adequately plead the claim, Dana Hearn did not plead a consortium type §1983 claim in the Complaint. In fact, Mrs. Hearn did not plead a common law loss of consortium claim.

II. CONCLUSION

Dana Hearn, having failed to adequately plead a claim for damages due to any violation of her Fourteenth Amendment liberty interest in maintenance and integrity of her family

relationship, is not entitled to maintain such a claim.

Respectfully submitted,

CITY OF PHILADELPHIA - LAW DEPARTMENT
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CERTIFICATE OF SERVICE

I, Edward D. Chew, Jr., Senior Attorney, hereby certify that on the date below indicated, a copy of the attached pleading was delivered to the following counsel by first-class mail.

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Date: December 11, 2003

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